

**PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM**  
**MINUTES OF POLICE OFFICER'S MEETING**  
**MARCH 9, 2010**

The regular meeting of the Tucson **Police** Public Safety Personnel Retirement System Board was held on Tuesday, March 9, 2010, on the 5<sup>th</sup> Floor, Finance Conference Room, City of Tucson, City Hall, 255 W. Alameda, Tucson, Arizona. Co-Chair Marion Pickens called the **Police** Board meeting to order at 9:01 a.m.

**1. ROLL CALL**

**Police Board Members:**

Present:	Marion Pickens	Co-Chair
	Mike Gurr	Member
	J. D. Kragnes	Member
Absent/Excused:	Robert Walkup	Chair
	Curry Hale	Member
Staff Present:	Elizabeth Martinez – Police and Fire Board Secretary	
	Dee Dee Roberts Meech – Board Staff	
	Kathy Maish – Executive Assistant/Finance Department	
	David McEvoy – Police and Fire Board Attorney	
Also Present:	Brian Delfs – Fire Board Member	
	Roger Tamietti – Fire Board Member	

**2. POLICE CONSENT AGENDA: ITEMS A – G**

- A. MINUTES FOR APPROVAL – 02/09/10
- B. PENSION PAYROLL – Addition of Normal Service Retirement for John DeConcini out of DROP in the amount of \$3,765.06. Addition of Normal Service Retirement for Mark Nisbet amount pending. Addition of Normal Service Retirement for James Williamson out of DROP in the amount of \$3,327.65.
- C. NORMAL SERVICE RETIREMENT  
John DeConcini – Last day worked 02/26/10 – Pension effective 03/01/10  
Mark Nisbet – Last day worked 02/18/10 – Pension effective 03/01/10  
James Williamson – Last day worked 02/02/10 – Pension effective 03/01/10

- D. DEFERRED RETIREMENT OPTION PLAN  
Jeffrey Couch - Election to participate in the DROP 02/26/10  
Frank Perolla – Election to participate in the DROP 02/28/10  
Doug Reid – Election to participate in the DROP 02/04/10  
Eugene Walker – Election to participate in the DROP 02/28/10
- E. TRANSFER OF PRIOR SERVICE  
Kevin Florey – Redemption of prior service with Park Forest Police  
4.786 years in the amount of \$74,483  
Misti Radcliff – Transfer of service from Chandler Police to Tucson Police  
0.1369 years in the amount of \$548.24  
Aninna Thornburg – Lateral Transfer from PSPRS/Arizona Game and Fish  
on 04/23/09 for 3.4360 years in the amount of \$10,960.97 and redemption  
of prior service with the Arizona State Retirement System 1.583 years of  
service in the amount of \$9,934.62
- F. EXPENDITURE STATEMENT IN THE AMOUNT OF \$400.00 FOR A  
SECOND PHYSICAL for Patricia Tersey (\$400.00) by Dr. Dennis Thrasher  
at Sunnyside Medcenter.
- G. RETAINER FEE OF \$400 PLUS COSTS-DAVID McEVOY, ATTORNEY

**MOTION** by Mr. Kragnes seconded by Mr. Gurr, that Police Board Items A – G  
are adopted and the appropriate action taken. Motion **CARRIED** by a roll call  
vote of 3-0. (Mr. Walkup and Mr. Hale absent/excused).

**3. FIRE CONSENT AGENDA: ITEMS A – E**

- A. MINUTES FOR APPROVAL – 02/09/10
- B. PENSION PAYROLL – No Change
- C. DEFERRED RETIREMENT OPTION PLAN  
Frank Shumaker – Election to participate in the DROP 02/28/10  
David Taylor – Election to participate in the DROP 02/28/10
- D. TRANSFER OF PRIOR SERVICE  
Nicholas Ranney – Transfer of service from Drexel Heights to Tucson Fire  
5.9192 years in the amount of \$19,774.06  
Jesse Yescas – Transfer of service from Drexel Heights to Tucson Fire  
3.4497 years in the amount of \$10,923.77

E. RETAINER FEE OF \$400 PLUS COSTS-DAVID McEVOY, ATTORNEY

The Police Board requires no action because this is a Fire Board item.

4. **APPLICATION FOR DISABILITY PENSION EXECUTIVE SESSION - Discussion or consideration of records exempt by law from public inspection A.R.S. 38-431.03[2] and discussion or consultation for legal advice with attorney staff A.R.S. 38-431.03 (A [3 & 4])**

**Fire** – Attachments

Randall Hnyda

There was no executive session.

**Police** – Attachments

Rene Gomez

There was no executive session.

5. **APPLICATION FOR DISABILITY RETIREMENT  
Direction regarding Executive Session**

**Fire**

Randall Hnyda

The Police Board requires no action because this is a Fire Board item.

**Police**

Rene Gomez

**MOTION** by Mr. Kragnes, seconded by Mr. Gurr after review of the medical evidence to request that Rene Gomez go to the Board Physician for a physical examination to determine if he is eligible for a Permanent Accidental Disability Retirement. Motion **CARRIED** unanimously.

6. **CONSIDERATION OF RULE 17 – ANNUAL PHYSICAL  
EXECUTIVE SESSION Discussion or consideration of records exempt by  
law from public inspection A.R.S. 38-431.03[2] and discussion or consultation  
for legal advice with attorney staff A.R.S. 38-431.03 (A [3 & 4])**

**Police – Attachments**

Virgil Judd: DOH: 09/18/94 DOR: 04/287/00 LAST PHY: 04/16/08\*  
Kyle Kohlmeyer: DOH: 03/13/98 DOR: 04/29/09 LAST PHY: 04/01/09  
Mariam Law: DOH: 07/16/90 DOR: 05/29/98 LAST PHY: 3/17/08  
Richard Law: DOH: 02/05/90 DOR: 04/19/07 LAST PHY: 04/08/09  
Arthur Soto: DOH: 06/15/92 DOR: 02/26/99 LAST PHY: 3/26/09  
Bret Summers: DOH: 07/02/00 DOR: 04/28/05 LAST PHY: 03/25/09

There was no executive session.

7. **CONSIDERATION OF RULE 17 – ANNUAL PHYSICAL  
Board Direction Regarding Executive Session**

**Police**

Virgil Judd  
Kyle Kohlmeyer  
Mariam Law  
Richard Law  
Arthur Soto  
Bret Summers

**MOTION** by Mr. Kragnes, seconded by Mr. Gurr in keeping with board policy to take a physical every other year that Kyle Kohlmeyer, Richard Law, Arthur Soto and Bret Summers are in compliance and do not have to take a physical this year. However, the board will review their cases again next year for consideration. Also that Virgil Judd and Mariam Law are requested to take a physical with the Board Physician, Dr. Dennis Thrasher to determine if they are still eligible for a Permanent Accidental Disability Pension. Motion **CARRIED** unanimously.

8. **COMPLIANCE WITH RULE 16 – ANNUAL PHYSICAL  
EXECUTIVE SESSION Discussion or consideration of records exempt by**

**\*Correction**

**law from public inspection A.R.S. 38-431.03[2] and discussion or consultation for legal advice with attorney staff A.R.S. 38-431.03 (A [3 & 4])**

**Police**

Richard Douglas – Appoint March 3, 2010  
Dennis Widener - Attachment

There was no executive session.

**9. COMPLIANCE WITH RULE 16 – ANNUAL PHYSICAL  
Board Direction Regarding Executive Session**

**Police**

Richard Douglas

Mr. Kragnes asked for direction from Mr. McEvoy regarding Mr. Douglas. Per Dr. Thrasher's letter dated 03/03/10, Mr. Douglas is no longer disabled. Mr. McEvoy said that Mr. Douglas does not satisfy the requirements under the statute for an accidental disability because there is no medical evidence to support it. Mr. Gurr stated the second part of the law says **AND** refuses an offer for a job. Mr. Kragnes added if he (Mr. Douglas) isn't offered a job because the city is not currently hiring and his POST certification is expired because he has been retired for so long.....then what?

Mr. McEvoy read statute 38-844(E1) as follows: Accidental will be considered to have ceased and accidental disability pension terminates if the member (1) has sufficiently recovered, in the opinion of the local board, based on a medical examination, to be able to engage in a reasonable range of duties.....which has occurred.....and the member refuses an offer of employment. Mr. McEvoy said by statute that both have to occur. Mr. Gurr asked whether the Board or the State or anybody having authority to tell the man to ask for a job. Mr. McEvoy asked if the City had been advised of this person's medical condition. Both Mr. Gurr and Mr. Kragnes said this scenario was presented to the City (Police) in an unofficial/hypothetical capacity. However, the City said they weren't hiring.

Ms. Martinez asked Mr. McEvoy if the accidental disability pension would convert to a normal retirement due to the verbiage in 38-844B. Mr. McEvoy read and reviewed a portion of 38-844B as follows: payment of an accidental disability pension shall commence on the first day of the month following the date of

retirement or the expiration of the period during which the member is receiving sick leave payments. The last payment shall be made as of the last day of the month in which the death of the retired member occurs (which doesn't apply) or if disability ceases prior to his normal retirement date. Mr. Douglas' normal retirement date would be approximately June of 2015. Ms. Martinez asked if the disability pension would convert to a normal pension if the Police Department didn't offer him a position. Mr. McEvoy said that although that made sense since he no longer qualifies for an accidental under section B. However, due to the interplay with section E that says an accidental shall be considered to have ceased: an accidental pension terminates if and then there are two parts in one (subpart one). Mr. McEvoy went on to say if you look at paragraph B as a silo, it says his accidental hasn't ceased because both things have to have occurred.

Mr. McEvoy went on to say that section E is the substantive provision and section B is the mechanical provision about when the last payment is made.

Mr. Kragnes asked if they should officially notify the City that Mr. Douglas is physically capable. It was the opinion by Mr. McEvoy that the City has to have an opportunity to make an offer if they so choose. Mr. Gurr added that the statute also says an offer by any employer of the system. Mr. McEvoy said it is not incumbent on the Board to notify all employers of the system in the state to say that this member is a free agent. Ms. Martinez added that the member would not have to solicit other agencies for a job but instead those agencies would have to contact the member.

Mr. McEvoy went on to say that the City should be notified so they can make a business decision whether they want to make an offer or not. Mr. McEvoy's interpretation of the interplay between those two paragraphs (if you're reading it in a way that's conservative in a sense in favor of the member) then his accidental hasn't ceased. The last part of section B may suggest otherwise but Mr. McEvoy believes that is more of a mechanical process. Mr. Gurr said he did not see anywhere in section B that says it converts the disability pension to an ordinary pension.

Mr. McEvoy said he is looking at section E because it is defining when an accidental, if he has established it at one point which happened. When it ceases, and this defines it and there are two parts to it and both have to be satisfied.

Mr. Gurr asked, do we monitor him, do we watch him.....what does this Board do? Mr. McEvoy suggested that if this member's name or social security number was associated with another PSPRS employer then Phoenix should notify the Board that the member is re-employed as a member of PSPRS.

Mr. Kragnes asked if for the time being they should officially notify the City and then sit back and wait. Mr. McEvoy agreed and went on to say that at this point we don't have the second leg of that criteria satisfied.

Mr. Delfs suggested that the Board should draft a letter to Phoenix notifying them of this situation. Mr. McEvoy agreed and said writing to Phoenix about this situation and specifically asking them to contact us if this retired member applies or becomes an active member of the system again. He also directed Ms. Martinez to notify the City (both City H/R and Police H/R) in writing that this person is no longer disabled.

Mr. Gurr said Mr. Douglas would have to start over with the City as a new employee because he has been retired for so long and all of his certifications have expired.

Ms. Martinez asked if the member was required to apply for a position with the City and Mr. McEvoy said he was not. However, he also said the City should be notified of the situation so they have the opportunity to make an offer of employment if they so choose.

**MOTION** by Mr. Kragnes, seconded by Mr. Gurr that based on the letters from Dr. Dennis Thrasher dated 03/03/10; Mr. Richard Douglas is no longer disabled. Board staff is directed to send correspondence to the Police Department notifying them of such and request the City of Tucson consider offering employment to Mr. Douglas who continues to be eligible for a Permanent Accidental Disability benefit until an offer of employment is made. In addition, Board Staff should also notify P.S.P.R.S. of Mr. Douglas' current status and request they notify the Tucson Board if Mr. Douglas accepts employment with any other Public Safety Employer in the state. Motion **CARRIED** unanimously.

Dennis Widener

**MOTION** by Mr. Kragnes, seconded by Mr. Gurr that Dennis Widener has complied with Rule 17. There is sufficient evidence that he continues to be eligible for a Permanent Accidental Disability benefit based on the letter from Dr. Dennis Thrasher dated 02/25/10. Motion **CARRIED** unanimously.

## **10. REQUEST FOR RETIREE LABELS**

### **Police and Fire**

Ms. Martinez received a request for names and addresses of our retirees from the City Manager's office. Kathy Maish said the City Manager's office wanted the information so they could notify the retirees of an upcoming town hall meeting. Ms. Maish said this meeting is a repeat of information presented to Mayor and Council on 02/23/10 regarding the budget option balancing plan. She went on to say that there is nothing about possible cuts but instead they want to get information out and get everyone on the same page. The meeting is scheduled for Thursday, 3/25/10 at TPD Westside Service Center.

Ms. Maish said she would provide the necessary supplies and the labels would then be printed by Ms. Martinez. Ms. Maish would help to affix the labels to the post cards but PSPRS staff would do all other handling of the outgoing mail. The database containing the retiree's personal information would not be released to anyone.

Mr. Delfs asked Mr. McEvoy his opinion about the request. Mr. McEvoy said if the Boards perceive there is a value to the retirees to be getting this information from the City to participate if they want to if they otherwise wouldn't know about it then it may be worth the time it takes to accomplish the process. He added that the confidentiality issue appears to be covered by the proposed process.

**MOTION** by Mr. Gurr, seconded by Mr. Kragnes, to allow the City Managers office use of the retiree's labels. Motion **CARRIED** unanimously.

## **11. LEGISLATION**

### **Police & Fire**

Ms. Martinez provided an updated legislative summary. Discussion ensued regarding HB 2654, which mandates that all PSPRS retirees switch to ASRS medical insurance. HB 2654 is available on line but for some reason was excluded from the legislative summary. Ms. Martinez said she was going to contact Phoenix and request that they include the information regarding HB 2654 in their summary.

Mr. Kragnes asked about HB 2067, which addresses modifying death benefits for surviving spouses. Ms. Martinez asked about this at the local board-training seminar in February. She thought it was just language clean up because the benefit for survivors is unchanged.



## 12. ELECTION

### Police & Fire

Ms. Martinez provided updated information regarding the upcoming elections. The candidate process is scheduled for 03/29/10 through 04/23/10. The liaison for Fire is Kenny Lee and the liaison for Police is Carla Johnson.

## 13. FUND INFORMATION

### Police & Fire

Mr. Delfs said Galloway Asset Management was presenting a retirement seminar at Fire Central on April 6, 2010. Mr. Galloway is the fund manager chairman for PSPRS.

## 14. ADJOURNMENT 9:44 a.m.

**MOTION** by Mr. Gurr, seconded by Mr. Kragnes, to adjourn the Police Board Meeting. Motion **CARRIED** unanimously.

The next regular meeting of the Tucson Police and Fire Public Safety Personnel Retirement System Boards is scheduled for **9:00 A.M.** on **Tuesday April 20<sup>th</sup>**, in the Finance Department Conference Room, Fifth floor of City Hall, 255 W. Alameda, Tucson, AZ.

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Elizabeth Martinez, Board Secretary

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Marion Pickens, Co-Chair

**VERBATIM TAPE RECORD ON FILE IN THE TUCSON POLICE AND FIRE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM BOARDS' OFFICE LOCATED AT CITY HALL, FINANCE DEPARTMENT, 1<sup>ST</sup> FLOOR WEST, 255 W. ALAMEDA, TUCSON, ARIZONA – AVAILABLE UPON REQUEST.**